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Your Ref: A355881

14 SEP 2018

Mr Linus Power MP
Chair
Economics and Governance Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Power

Thank you for your letter dated 24 August 2018 regarding the Economics and Governance Committee's (Committee) inquiry into the Revenue and Other Legislation Amendment Bill 2018.

Specifically, I refer to your request for a written response from Queensland Treasury (Treasury) and the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) on the issues raised in public submissions.

The fourteen (14) submissions received have been reviewed by relevant Treasury and DATSIP officers and responses are attached. Please note, a separate response has not been prepared on the Property Council of Australia submission (Submission No. 7) as it is supportive of proposed amendments and supports the detailed comments provided in the PEXA submission (Submission No. 6).

If the Committee requires any further information please contact the departmental contact, [REDACTED] Manager – Cabinet Legislation and Liaison Office on [REDACTED] or at [REDACTED].

Yours sincerely



Jim Murphy
Under Treasurer

Encl.

Briefing Note for Economics and Governance Committee

Inquiry into the Revenue and Other Legislation Amendment Bill 2018s

Queensland Treasury

Briefing on submission received from Australian Charities and Not-for-profits Commission (ACNC)

Issues

1. Queensland Treasury notes the ACNC's statement that the amendments will cause an unnecessary regulatory burden on charitable institutions. However, as the amendments merely restore the intended operation of the charitable institution registration provisions and the Office of State Revenue's (OSR) longstanding practice, only charitable institutions that have been registered with OSR after the change of practice and do not have express clauses governing the use of their income and property will be directly affected as they will be required to amend their constitutions. To date, 82 such institutions have been identified.
2. Charitable institutions that have not yet applied for registration will be impacted if their constitutions do not include the requirements and they apply for registration as a charitable institution to access State tax exemptions. However, it is not possible to estimate the number of institutions falling within this category.
3. As registration is a pre-condition to a number of valuable State tax exemptions, a registered charitable institution must notify the Commissioner of State Revenue if it no longer meets the requirements for registration. To access duty exemptions, eligibility is again tested at the time of the transaction. For taxes such as land tax and payroll tax which are imposed on a recurring basis, eligibility for exemptions is tested periodically. For land tax this is yearly and for payroll tax this is usually monthly.
4. Institutions that have constitutions that contain the express requirements have much greater certainty as to their eligibility for State tax exemptions. In contrast, for charitable institutions that do not have the requirements expressly contained in their constitutions, the practical effect of their constitution would need to be reconsidered each time they sought to claim an exemption, creating uncertainty. As charitable institutions would potentially be required to produce a significant amount of evidence each time they sought to claim an exemption, this would be administratively inefficient and resource intensive for the institution. This would particularly impact institutions that claim ongoing land tax and payroll tax exemptions.
5. By restoring the intended operation of the registration provisions and OSR's longstanding practice, the amendments provide certainty and ensure equitable treatment of all entities seeking registration as a charitable institution with OSR. The State tax exemptions available to charitable institutions are very valuable and it would represent a significant risk to revenue if due consideration to eligibility is not given each time an exemption is claimed.

6. The ACNC is concerned by differences in wording between the proposed amendments to the *Taxation Administration Act 2001* and its own template governing document. Noting that this would have been an issue for many years prior to the QCCI decision, Queensland Treasury is not aware of widespread concern amongst charities that amending their constitutions to comply with section 149C(5) of the *Taxation Administration Act 2001* as proposed to be amended by the Bill would have an adverse effect on their ACNC registration. Furthermore, Queensland Treasury considers that the ACNC registration of a charity which amends its constitution to expressly include the requirements should not be adversely affected because the effect of the express requirements is to ensure that a charitable institution is in fact charitable.
7. Queensland Treasury notes that the *Associations Incorporation Regulation 1999* also provides a template constitution for not-for-profit associations, or 'model rules' as it is known under that Regulation. The requirements in the *Taxation Administration Act 2001* are therefore intended to apply broadly regardless of what template a charity uses for its constitution, or whether a charity uses a template at all.
8. Queensland Treasury notes the ACNC's suggestion that Queensland adopt a definition of charity based on the definition in the *Charities Act 2013* (Cwlth). This proposal is beyond the scope of the current Bill. Queensland is responsible for setting its own conditions for State tax concessions, and there are no current plans to review the definition of charity in State tax legislation.
9. Queensland Treasury notes the ACNC's concerns that the transitional periods in the Bill are too short. Queensland Treasury considers that the current transitional periods are appropriate in light of the common administrative requirements for amending a constitution. However, if the government considers that a longer period is appropriate this would not create administrative difficulties for OSR.

Background

10. Under the *Taxation Administration Act 2001*, registration as a charitable institution is a pre-condition to valuable State tax exemptions.
11. It was OSR's longstanding practice that, to qualify for registration as a charitable institution, the institution had to expressly include the restrictions in section 149C(5) of the *Taxation Administration Act 2001* in their constitution, or another instrument constituting and governing it.

Briefing Note for Economics and Governance Committee

Inquiry into the Revenue and Other Legislation Amendment Bill 2018

Queensland Treasury

Briefing on submission received from Property Exchange Australia Ltd (PEXA)

Issues

1. PEXA submits that the Office of State Revenue (OSR) should accept payment of transfer duty directly from a PEXA settlement. To ensure self assessors meet their legislative obligations and revenue protections are maintained, payment of any transfer duty from settlement funds from a PEXA transaction must be paid by the self assessor to OSR. Payment cannot be made directly to OSR from a PEXA settlement.
2. Allowing transfer duty payments directly from a PEXA settlement would require significant changes to the self assessor transfer duty framework, with unquantifiable risks to revenue. For this reason, Queensland Treasury does not consider it is appropriate to allow payments of transfer duty directly from a PEXA settlement to OSR.
3. OSR offers a range of payment methods, including BPay, BPOINT, direct debit, cheque or online through OSR's portal, OSRconnect.
4. PEXA submits that non-monetary transactions ought to be capable of electronic transfer. Queensland Treasury confirms that non-monetary transfers, and a number of related exemptions from transfer duty, are specifically contemplated by the provisions in the Bill. Provided that an electronic transaction meets the requirements of either an 'ELN transfer' or an 'ELN lodgement', there is no legislative barrier for parties to use e-conveyancing, including to settle non-monetary transfers.
5. PEXA notes its system currently does not cater for transfers by direction. However, PEXA requests that the legislation does not limit situations where two agreements can be completed by way of two separate transfers. Queensland Treasury confirms the Bill permits completion of separate transfers under these arrangements as an 'ELN lodgement' once all duty obligations have been met. Transfers by direction are only excluded from electronic settlement via the 'ELN transfer' category. This exclusion ensures appropriate revenue protection, as transfer duty applies to each of the agreements and there is no visibility of these agreements through the electronic system prior to the transfer being registered.
6. PEXA further submits that there should be no limitation on transfers which arise from a transferor to a transferee nominated by the purchaser. Queensland Treasury confirms that transfers to a person other than the named purchaser because of a pre-existing nominee agreement are not permitted for e-conveyancing. As these transactions cannot be self assessed by a registered self assessor they are not within the scope of the Bill.

Background

7. Most transfer duty payable under the *Duties Act 2001* is assessed and paid under the self assessment system. The Commissioner of State Revenue has power to register a person as a self assessor. In particular, parties to transactions and agents for parties to property transactions (mainly solicitors) may be registered.
8. Self assessors are permitted to assess most land-based dealings for transfer duty, including to apply certain transfer duty concessions and exemptions.

9. There are specific legislative obligations on self assessors for the correct endorsement and payment of transfer duty. These obligations must be met irrespective of whether a transaction is settled electronically or traditionally as a paper-based transaction. These obligations serve as important revenue protections, and failure to comply with any such obligations may be an offence.
10. OSR maintains its own online lodgement portal, OSRconnect, which allows self assessors the convenience to lodge dutiable transactions and pay transfer duty online directly to OSR.
11. A transfer by direction typically involves a sale between three parties, such as from party A to party B, and then a further sale to party C. In this case, there will be a contract of sale between A and B, and another between B and C, with one transfer from A to C. The contracts are usually assessed as separate transactions, with the transfer stamped pursuant to the contracts.

Briefing Note for Economics and Governance Committee

Inquiry into the Revenue and Other Legislation Amendment Bill 2018

Queensland Treasury

Briefing on submission received from Queensland Law Society (QLS)

Issues

Amendments to the *Taxation Administration Act 2001* – registration of charitable institutions

1. The QLS raises concerns that the amendments will impose significant administrative costs by requiring every Queensland charity and not-for-profit to review their constitution, as well as requiring many to amend their constitutions. The QLS further raises concerns that the prescriptive language in the amendments may cause charitable institutions who are not actively engaged to lose their State tax concessions.
2. However, as the amendments merely restore the intended operation of the registration provisions and the Office of State Revenue's (OSR) longstanding practice, only charitable institutions that have been registered with OSR after the change of practice and do not have express clauses governing the use of their income and property will be directly affected, as they will be required to amend their constitutions. To date, 82 such institutions have been identified.
3. Charitable institutions that have not yet applied for registration will be impacted if their constitutions do not include the requirements and they apply for registration as a charitable institution to access State tax exemptions. However, it is not possible to estimate the number of institutions falling within this category.
4. As registration is a pre-condition to several valuable State tax exemptions, a registered charitable institution must notify the Commissioner of State Revenue if it no longer meets the requirements for registration. To access duty exemptions, eligibility is again tested at the time of the transaction. For taxes such as land tax and payroll tax which are imposed on a recurring basis, eligibility for exemptions is tested periodically. For land tax this is yearly and for payroll tax this is usually monthly.
5. Charitable institutions that have constitutions that contain the express requirements have much greater certainty as to their eligibility for State tax exemptions. In contrast, for charitable institutions that do not have the requirements expressly contained in their constitutions, the practical effect of their constitution would need to be reconsidered each time they sought to claim an exemption, creating uncertainty. As charitable institutions would potentially be required to produce a significant amount of evidence each time they sought to claim an exemption, this would be administratively inefficient and resource intensive for the institution. This would particularly impact institutions that claim ongoing land tax and payroll tax exemptions.
6. By restoring the intended operation of the registration provisions and OSR's longstanding practice, the amendments provide certainty and ensure equitable treatment of all entities seeking registration as a charitable institution with OSR. The State tax exemptions available to charitable institutions are very valuable and it would represent a significant risk to revenue if due consideration to eligibility is not given each time an exemption is claimed.

7. The QLS notes that the existing requirement in section 149C(5) of the *Taxation Administration Act 2001* may disqualify a charitable institution which permits distributions to a member which is itself a charity and the distribution is in furtherance of the charitable purpose. With respect, this is a currently existing policy issue which should be considered separately to this Bill.
8. The QLS notes differences in wording between the proposed amendments to the *Taxation Administration Act 2001* and the Australian Charities and Not-for-profits Commission's (ACNC) template governing document. Noting that this would have been an issue for many years prior to the QCCI decision, Queensland Treasury is not aware of widespread concern amongst charities relating to this issue. Queensland Treasury notes that the *Associations Incorporation Regulation 1999* also provides a template constitution for not-for-profit associations, or 'model rules' as it is known under that Regulation. The requirements in the *Taxation Administration Act 2001* are therefore intended to apply broadly regardless of what template a charity uses for its constitution.
9. In response to the QLS' query regarding the policy intent of the amendments, Queensland Treasury confirms that the amendments are not intended to narrow the availability of State revenue concessions. They are solely intended to restore the intended policy position.
10. Queensland Treasury notes the QLS' concerns that the transitional periods in the Bill are too short and should be extended to 18 months to align with the Annual General Meeting cycle. Queensland Treasury considers that the current transitional periods are appropriate in light of the common administrative requirements for amending a constitution. However, if the government considers that a longer period is appropriate this would not create administrative difficulties for Queensland Treasury.
11. Queensland Treasury notes the QLS' suggestion that Queensland adopt the Commonwealth definition of charity as a gateway to State tax concessions. This proposal is beyond the scope of the current Bill. Queensland is responsible for setting its own conditions for State tax concessions, and there are no current plans to review the definition of charity in State tax legislation.

Amendments to the *Duties Act 2001* – e-conveyancing

12. The QLS has requested consideration be given to allowing payment of transfer duty directly to OSR through approved e-conveyancing platforms. Queensland Treasury acknowledges that payments of transfer duty cannot be made through an e-conveyancing platform, such as PEXA, directly to OSR. This is an important revenue protection measure, and ensures that self assessors meet their obligations for the correct endorsement and payment of transfer duty.
13. To allow transfer duty payments directly from an e-conveyancing platform would require significant changes to the self assessor transfer duty framework, with unquantifiable risks to revenue. For this reason, Queensland Treasury does not consider it is currently appropriate to allow payments of transfer duty directly from an e-conveyancing platform to OSR.
14. However, there is no legislative requirement that payments of transfer duty must be paid to OSR by cheque. OSR offers a range of convenient payment methods, including BPay, BPOINT, direct debit or online through OSR's portal, OSRconnect.

Background

Amendments to the *Taxation Administration Act 2001* – registration of charitable institutions

15. Under the *Taxation Administration Act 2001*, registration as a charitable institution is a pre-condition to valuable State tax exemptions.

16. It was OSR's longstanding practice that, to qualify for registration as a charitable institution, the institution had to expressly include the restrictions in section 149C(5) in their constitution, or another instrument constituting and governing it.

Amendments to the *Duties Act 2001* – e-conveyancing

17. Most transfer duty payable under the *Duties Act 2001* is assessed and paid under the self assessment system. The Commissioner of State Revenue has power to register a person as a self assessor. In particular, parties to transactions and agents for parties to property transactions (mainly solicitors) may be registered.
18. Self assessors are permitted to assess most land-based dealings for transfer duty, including to apply certain transfer duty concessions and exemptions.
19. There are specific legislative obligations on self assessors for the correct endorsement and payment of transfer duty. These obligations must be met irrespective of whether a transaction is settled electronically or traditionally as a paper-based transaction. These obligations serve as important revenue protections, and failure to comply with any such obligations may be an offence.
20. OSR maintains its own online lodgement portal, OSRconnect, which allows self assessors the convenience to lodge dutiable transactions and pay transfer duty online directly to OSR.

REVENUE AND OTHER LEGISLATION AMENDMENT BILL 2018

DEPARTMENT OF ABORIGINAL AND TORRES STRAIT ISLANDER PARTNERSHIPS

Response to the Economics and Governance Committee

Summary of submissions and responses

Thank you to all those who took the time to provide submissions on the Bill. The summary below explains the key issues raised.

Acronyms used

- JLOM Act – *Aboriginal and Torres Strait Islander (Justice, Land and Other Matters) Act 1984*
- CHA – *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003*

No.	Submitter (related party)	Amendments	Key points	Department's response
2	Nuga Nuga Aboriginal Corporation	CHA	<u>Issue</u> <ul style="list-style-type: none">• There has not been an opportunity for consultation on the proposed amendments.• Proposed amendments will empower people who have been found by the Federal Court not to hold or be descended from holders of native title to make decisions by virtue of reinstating the 'last claim standing' provision.• The 'last claim standing' provision provides for expedience in identifying a party to have dealings without regard for whether that party is suitably qualified and authorised to manage Aboriginal cultural heritage and avoid harm to it. <u>Recommendation</u> <ul style="list-style-type: none">• To revisit the qualifications and role of Aboriginal cultural heritage bodies, and reform the definition of Aboriginal party to give greater transparency.	<ul style="list-style-type: none">• The practical implications of the Nuga Nuga decision require an immediate fix to reinstate the 'last claim standing' provision as it was previously understood by decision-makers under the CHA and affected stakeholders to provide certainty to all stakeholders who have relied on the interpretation of the 'last claim standing' provision prior to the Nuga Nuga decision.• This includes approximately 82 approved cultural heritage management plans and 65 previously registered native title claimants affected by the Nuga Nuga decision.• The broader policy objectives of section 34(1)(b)(i) and other provisions, and their operation in the context of the legislative framework should be considered as part of a holistic review of the CHA. This would require an extensive consultation process and consideration of stakeholder feedback. This broader review is presently being considered, including allowing appropriate time for this proper consultation. The current amendments will ensure certainty for affected parties in the meantime.

3	Hopgood Ganim Lawyers (for Yugara/Yugarapul Aboriginal Corporation)	CHA	<p><u>Issue</u></p> <ul style="list-style-type: none"> Proposed amendments will: lead groups to maintain their 'native title party' status despite judicial determination that facts relied upon in their native title determination applications were false; not accord natural justice to other potential Aboriginal parties; and are inconsistent with fundamental legislative principles. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> The 'last claim standing' provision does not apply in circumstances where: <ul style="list-style-type: none"> there has been a negative determination for the former registered native title claimants (RNTCs) for native title; or the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) cannot be satisfied that the former RNTCs meets the criteria for an Aboriginal party in that they are not a party under section 35(7); and DATSIP should be able to receive and consider further information in relation to whether a party should be, or should continue to be the last claim standing RNTC. 	<ul style="list-style-type: none"> The practical implications of the Nuga Nuga decision require an immediate fix to reinstate the 'last claim standing' provision as it was previously understood by decision-makers under the CHA and affected stakeholders to provide certainty to all stakeholders who have relied on the interpretation of the 'last claim standing' provision prior to the Nuga Nuga decision. This includes approximately 82 approved cultural heritage management plans and 65 previously registered native title claimants affected by the Nuga Nuga decision. The broader policy objectives of section 34(1)(b)(i) and other provisions, and their operation in the context of the legislative framework should be considered as part of a holistic review of the CHA. This would require an extensive consultation process and consideration of stakeholder feedback. This broader review is presently being considered, including allowing appropriate time for this proper consultation. The current amendments will ensure certainty for affected parties in the meantime.
4	Cape York Land Council Aboriginal Corporation	JLOM Act and CHA	<p><u>Support</u></p> <ul style="list-style-type: none"> Support the objectives of the proposed amendments. 	<ul style="list-style-type: none"> Noted.
5	Queensland Resources Council	CHA	<p><u>Support</u></p> <ul style="list-style-type: none"> Proposed amendments which will restore certainty to the process of identifying Aboriginal and Torres Strait Islander parties. Notes Deputy Premier's speech regarding the opportunity for the government to explore possibility of broader review of the CHA and the Council looks forward to receiving continued productive and open consultation. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> The transitional provisions do not appear to capture land users, in reliance on the Nuga Nuga decision, who entered into negotiation for agreements with Aboriginal or Torres Strait Islander people are not afforded the same protection as those who have entered into 	<ul style="list-style-type: none"> An amendment to ensure land users who entered into agreements with Aboriginal or Torres Strait Islander people are afforded the same protection as those who have entered into negotiations for cultural heritage management plans is not required because such actions are preserved by section 20(2) of the <i>Acts Interpretation Act 1954</i>. An amendment to replace 'unlawful or invalid' with 'ineffective' is not required as 'ineffective' has the same effect as 'unlawful or invalid'.

			<p>negotiations for cultural heritage management plans once the amendments commence.</p> <ul style="list-style-type: none"> Validation provisions do not capture circumstances where the act may not be unlawful or invalid acts but 'ineffective' where incorrect Aboriginal or Torres Strait Islander parties have been identified. 	
8	Quandamooka Yoolooburrabee Aboriginal Corporation	CHA	<p><u>Issue</u></p> <ul style="list-style-type: none"> The amendments will allow people who are not descendants of the original Aboriginal people to manage Aboriginal cultural heritage, in a manner not contemplated or supported by the CHA. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> Recommends that the amendments should reflect the finding in the Nuga Nuga decision, that is, once an Aboriginal party has been found to not be able to provide lineal descent and continuity in accordance with the <i>Native Title Act 1993</i> (Cth), that it is preferable to allow an Aboriginal group that can show traditional and familial links to an area to be considered as the new Aboriginal and native title party for the area. 	<ul style="list-style-type: none"> The broader policy objectives of section 34(1)(b)(i) and other provisions, and their operation in the context of the legislative framework should be considered as part of a holistic review of the CHA. This would require an extensive consultation process and consideration of stakeholder feedback. This broader review is presently being considered, including allowing appropriate time for this proper consultation. The current amendments will ensure certainty for affected parties in the meantime.
9	AgForce Queensland Farmers Limited	CHA	<p><u>Support</u></p> <ul style="list-style-type: none"> With the vast majority of Queensland managed by their membership, AgForce has an enormous interest in ensuring a clear cultural heritage framework operates in Queensland. 	<ul style="list-style-type: none"> Noted.
10	Chuulangun Aboriginal Corporation	CHA	<p><u>Issue</u></p> <ul style="list-style-type: none"> The proposed amendments will re-establish the status quo. The 'last claim standing' provision invalidates the native title rights of those that may be in the process of re-establishing their native title connections. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> Clan-based mapping be developed in consultation with Indigenous communities. Indigenous Reference Group process be reinvigorated to ensure best practice engagement model. To include a provision to identify any new knowledge about native title claimants/traditional owners since 	<ul style="list-style-type: none"> The practical implications of the Nuga Nuga decision require an immediate fix to reinstate the 'last claim standing' provision as it was previously understood by decision-makers under the CHA and affected stakeholders to provide certainty to all stakeholders who have relied on the interpretation of the 'last claim standing' provision prior to the Nuga Nuga decision. This includes approximately 82 approved cultural heritage management plans and 65 previously registered native title claimants affected by the Nuga Nuga decision.

			<p>agreements were approved, and allow for an addendum to those agreements to ensure traditional owners can be a party to that agreement and make any reasonable adjustments.</p> <ul style="list-style-type: none"> The CHA and all relevant planning legislation incorporate a requirement for culturally appropriate engagement with Aboriginal communities, based on traditional governance methodologies. 	<ul style="list-style-type: none"> The broader policy objectives of section 34(1)(b)(i) and other provisions, and their operation in the context of the legislative framework should be considered as part of a holistic review of the CHA. This would require an extensive consultation process and consideration of stakeholder feedback. This broader review is presently being considered, including allowing appropriate time for this proper consultation. The current amendments will ensure certainty for affected parties in the meantime.
11	Clayton Utz	CHA	<p><u>Support</u></p> <ul style="list-style-type: none"> The proposed amendments have no impact on any individuals' or groups' native title rights and interests, and whether a person may hold or exercise native title rights and interests. Passage of the Bill would reinstate the previous native title party status, and revive the viability of some of the State's most important projects and developments. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> The transitional provisions should be extended to cover acts or omissions that were 'ineffective', and to declare such acts to be as 'effective' as they would have been if amended section 34 were in force at the appropriate time. 	<ul style="list-style-type: none"> An amendment to replace 'unlawful or invalid' with 'ineffective' is not required as 'ineffective' has the same effect as 'unlawful or invalid'.
12	Queensland Law Society	CHA	<p><u>Issue</u></p> <ul style="list-style-type: none"> Since the provision was introduced in 2010, native title representative bodies (NTRBs) and service providers have made submissions to the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) relating to the <i>Aboriginal Cultural Heritage Act 2003</i>, and highlighted deficiencies, in particular, the last claim standing provision. The provision does not have sufficient regard to Aboriginal tradition and Island custom because it does not recognise and accommodate determined native title holders at common law i.e. reinstating the intention does not take into account judicial findings of a court of superior record regarding traditional owners as well as Indigenous disputes that arise. 	<ul style="list-style-type: none"> The broader policy objectives of section 34(1)(b)(i) and other provisions, and their operation in the context of the legislative framework should be considered as part of a holistic review of the CHA. This would require an extensive consultation process and consideration of stakeholder feedback. This broader review is presently being considered, including allowing appropriate time for this proper consultation. The current amendments will ensure certainty for affected parties in the meantime.

			<ul style="list-style-type: none"> Where a registered native title body corporate (RNTBC) exists, that body corporate would be an appropriate entity to be registered under section 36 as an Aboriginal cultural heritage body under a successful native title determination. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> DATSIP work with RNTBCs and existing NTRBs to identify Aboriginal and Torres Strait Islander parties. 	
13	U&D Mining Industry (Australia) Pty Ltd		<p><u>Support</u></p> <ul style="list-style-type: none"> U&D has undertaken extensive clearance work to protect Aboriginal cultural heritage and associated values in the area for a project so in order to comply with their duty of care. Amendments will provide certainty to cultural heritage management processes. Amendments will reinstate the Karingbal claimant as a last claim standing native title party and revive the project for U&D by confirming the extensive cultural heritage clearance work done for a project that has been validly done in order for U&D to discharge its cultural duty of care. 	<ul style="list-style-type: none"> DATSIP acknowledges U&D Mining Industry for outlining the extensive work and costs undertaken to protect Aboriginal cultural heritage and associated values for an area for so that land users such as U&D Mining can discharge its duty of care and certainty to cultural heritage management processes.
14	Queensland South Native Title Services	CHA	<p><u>Issue</u></p> <ul style="list-style-type: none"> The effect of proposed amendments would be to permit persons who had been found by the Court to have no traditional association with the relevant place to still be considered as an Aboriginal party through the 'last claim standing' provision. The 'last claim standing' provision is, in certain circumstances, culturally inappropriate, particularly where native title claimants are found not to have the requisite connection to land and waters. Aboriginal people who have been found to have traditional association with places (albeit not able to reach the high bar required to achieve native title determination) will not have the opportunity and responsibility to care for their traditional country, and devolved upon people by virtue of them being identified in a particular document at a particular time. <p><u>Recommendation</u></p> <ul style="list-style-type: none"> The proposed amendments be withdrawn and the CHA be referred for a proper review. 	<ul style="list-style-type: none"> The broader policy objectives of section 34(1)(b)(i) and other provisions, and their operation in the context of the legislative framework should be considered as part of a holistic review of the CHA. This would require an extensive consultation process and consideration of stakeholder feedback. This broader review is presently being considered, including allowing appropriate time for this proper consultation. The current amendments will ensure certainty for affected parties in the meantime.